STORAGE NAME: h1737a.ga
DATE: April 16, 1999

HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL APPROPRIATIONS
ANALYSIS

BILL #: HB 1737

RELATING TO: Ad Valorem Taxation

SPONSOR(S): Representative Brummer

COMPANION BILL(S): SB 1792 (c)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) COMMUNITY AFFAIRS YEAS 10 NAYS 0
(2) FINANCE AND TAXATION YEAS 11 NAYS 0
(3) GENERAL APPROPRIATIONS YEAS 22 NAYS 0
(4)
(5)

I. SUMMARY:

This bill requires the property appraiser to grant a 30-day extension for filing a tangible personal property tax return.

The bill authorizes the property appraiser to grant an additional discretionary extension of 15 days.

The bill prohibits the property appraiser from requiring a request for extension to be submitted more than 10 days prior to the tax return due date.

The bill revises the requirements relating to extension requests.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Taxation and finance issues are addressed in chapters 192 through 221, (Title XIV), Florida Statutes. Section 192.001, Florida Statutes, defines tangible personal property as “all goods, chattels, and other articles of value . . . capable of manual possession and whose chief value is intrinsic to the article itself.” A more descriptive definition of tangible personal property is any personal property which may be seen, perceived by the senses, weighed, measured, or touched. However, stocks, bonds, notes, securities, or other obligations are not tangible personal property.

Currently under 193.063, Florida Statutes, a property appraiser may issue an extension for filing a tangible personal property tax return. This extension may *be up* to 45 days and is at the property appraiser’s discretion. A request for an extension must be made in time to allow the property appraiser to review the request and act on it prior to the tax return due date. In addition, the request for an extension must include the taxable entity’s name, its tax identification number, and the reason why an extension should be granted.

Pursuant to section 193.072, Florida Statutes, the penalty for filing a return after the due date is 5 percent of the total tax levied against the property covered by the return for that year, for each month that a return is filed after the due date, not to exceed 25 percent.

B. EFFECT OF PROPOSED CHANGES:

This bill requires that the property appraiser grant an extension for filing a tangible personal property tax return for 30 days if a request is submitted. The bill authorizes an additional discretionary extension of up to 15 additional days. This is different than current law, as the property appraiser now has complete discretion to grant up to a 45-day extension. Although this bill does not change the maximum amount of days allowed for the extension (45 days), it does limit the property appraiser’s discretion to only 15 days. Upon filing a request for an extension, a taxpayer will receive, at a minimum, a 30-day extension. This period may be extended for an additional 15 days at the discretion of the property appraiser.

The bill prohibits the property appraiser from requiring a request for extension more than 10 days prior to the tax return’s due date. Currently, section 193.063, Florida Statutes, provides that an extension request must be submitted in time to allow the property appraiser to review the request and act on it prior to the tax return due date. Under this bill, the property appraiser would be prohibited from requiring that the request be submitted more than 10 days prior to the due date.

The bill revises the requirements relating to the extension request by allowing any or all of the following information to be included in the request: name of the taxable entity, tax identification number, and the reason a discretionary extension is granted. The required information is at the option of the property appraiser.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. An automatic 30-day extension effectively moves the tax return date from April 1 to May 1. Since counties must have their preliminary tax roll prepared by July 1, property appraisers will be required to do the required work in 60 days rather than 90 days without any additional people.

(3) any entitlement to a government service or benefit?

Yes. The bill requires a property appraiser to grant a 30-day extension for filing a tangible personal property tax return. The statute previously authorized the property appraiser to grant up to 45 days, at his discretion, upon a request for an extension. Under the bill, a 30-day extension will be granted upon submitting a request.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      N/A

   b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

      N/A

5. Family Empowerment:

   a. If the bill purports to provide services to families or children:

      (1) Who evaluates the family's needs?

          N/A

      (2) Who makes the decisions?

          N/A

      (3) Are private alternatives permitted?

          N/A

      (4) Are families required to participate in a program?

          N/A

      (5) Are families penalized for not participating in a program?

          N/A

   b. Does the bill directly affect the legal rights and obligations between family members?

      N/A

   c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

      (1) parents and guardians?

          N/A

      (2) service providers?

          N/A

      (3) government employees/agencies?

          N/A

D. STATUTE(S) AFFECTED:

Section 193.063, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends section 193.063, Florida Statutes, to require the property appraiser to grant a 30-day filing extension, upon filing a request for an extension, for a tangible personal property tax return; authorizes an additional discretionary 15-day extension; prohibits the property appraiser from requiring that an extension request be filed more than 10 days prior to the return due date; revises requirements of specific information in the extension request.

Section 2: Provides effective date of January 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

   None.

2. Recurring Effects:

   None.

3. Long Run Effects Other Than Normal Growth:

   None.

4. Total Revenues and Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   None

2. Recurring Effects:

   Indeterminate. Because this bill may result in the Property Appraisers’ offices having less time to preform the same amount of work, there may be an increase in costs due to the increased need for labor during this period.

3. Long Run Effects Other Than Normal Growth:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   None.

2. Direct Private Sector Benefits:

   The automatic extension will allow both taxpayers and their CPA's a guarantee of extra time in which to file their tangible personal property tax returns. This automatic extension should be particularly beneficial to taxpayers using CPA's as many CPA's are extremely busy before the April 15 Federal Income Tax filing deadline. The automatic extension would allow taxpayers to wait until May 1 to file, allowing the CPA's some time after the federal deadline to prepare the Tangible Property Tax Return, and possibly reducing the amount of overtime they will have to put in and the taxpayers will have to pay for. Moreover, because the first 30 days of the extension will be mandatory, taxpayers and their CPA's will not have the problem of arbitrary decisions being made to deny them this first extension. Further, specifying in the statute when the application for the extension must be filed will provide the taxpayer with more certainty and sufficient notice regarding when an application for an extension must be filed.

3. Effects on Competition, Private Enterprise and Employment Markets:

   None.

D. FISCAL COMMENTS:

The automatic extension may either cause property appraisers to be unable to thoroughly review the returns or force them to hire additional people to process the tax returns in order for an appraiser to certify the tax roll by the statutory deadline of July 1. For example, last year, Volusia County had approximately 45,000 tax returns filed. Out of those 45,000, its property appraiser received 700 requests for extension, and granted all but a few. Extensions for 20 days were normally granted, unless there were extenuating circumstances and a longer extension was granted. Extensions for 45 days were not normally granted due to the July 1 deadline.

Dade County had approximately 108,000 tax returns filed last year. Out of the 108,000 returns, its property appraiser received approximately 210 applications for extensions, and granted 105 of them. The remaining requests were denied mostly because they were not for cause and were form letters asking for extensions. Even with the limited number of extensions, the work load for the Dade County property appraiser was substantial.

Polk County had 19,627 tax returns mailed in 1998. Only 10,163 returns (49%) were filed by the statutory deadline of April 1. As of June 1, the total returns filed had increased to 15,527. By June 1, 21 percent of tax returns had not been filed.

If there is an automatic extension, there is a possibility that a greater number of taxpayers will ask for the extension, causing the property appraiser to have less time to process and evaluate more returns. Inevitably, this may lead to property appraisers being required to increase their staff in order to meet the July 1 deadline.

In addition to the potential need for more staff, counties may lose a substantial amount of revenue generated from penalties for late filing of tangible tax returns. The penalty for filing a return after the due date is 5 percent of the total tax levied against the property covered by the return for that year, for each month that a return is filed after the due date, not to exceed 25 percent. Last year, penalties for late filings of tangible tax returns in Polk County amounted to approximately $458,000.

However, it does seem unlikely that every taxpayer will take advantage of the automatic extension. Moreover, the additional time will allow CPAs and other tax professionals time after the Federal Income Tax deadline to file complicated Tangible Personal Property Returns. This may increase the completeness and accuracy of the returns submitted.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

If this bill increases the costs to cities or counties, the provisions of Article VII, Section 18 of the Florida Constitution may apply. However, any increase in costs as a result of this legislation is anticipated to be insignificant, and thus, the bill is exempt from the requirements of Article VII, Section 18.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

Although the counties may experience reduced revenues through the imposition of fines on taxpayers filing returns late, this bill not affect the counties authority to levy such fines. Thus, this bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON Community Affairs:

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